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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,946	12/29/2003	Edward John Giblin	C6664(C)	7892

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UNILEVER INTELLECTUAL PROPERTY GROUP  
700 SYLVAN AVENUE,  
BLDG C2 SOUTH  
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/748,946

Applicant(s)

GIBLIN ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11,14-17,20,21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,14-17,20,21 and 23 is/are rejected.
- 7) ☐ Claim(s) 14-17,20,21 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/6/05, 4/26/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 14 – 17, 20 – 21 and 23 are objected to because of the following informalities:

The claims are dependent on Claim 1, which has been cancelled.

2. Claims 14 – 16 are objected to because of the following informalities: The meaning of the term 'clarified' is unclear. For purposes of examination, the term will be interpreted to mean any polypropylene. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11, 14 – 17, 20 – 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al (U.S. Patent No. 6,329,465 B1).

With regard to Claims 11, 17 and 20 – 21, Takahashi et al disclose a multi – layer bottle (column 70, line 12), therefore having an outer layer, middle layer and inner layer; each layer of the bottle comprising 60% by weight of a polyethylene polymer (column 25, lines 3 – 9) which is a metallocene polyethylene (obtained by use of catalysts containing metallocene; column 1, lines 44 – 47 and 64 – 67) blended with a linear polyethylene which is a homopolymer (column 88, lines 61 – 65) or high density polyethylene (column 88, lines 66 – 67; column 89, lines 1 – 8);

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Takahashi et al disclose a polyethylene density ranging from 0.880 to 0.970 g/cm<sup>3</sup> (column 9, lines 42 – 45) and therefore disclose that densities within the range of 0.880 to 0.970 g/cm<sup>3</sup> are used interchangeably; Takahashi et al therefore disclose a metallocene polyethylene with a density from 0.91 to 0.95 g/cm<sup>3</sup> and homopolymer polyethylene with a density greater than 0.957 g/cm<sup>3</sup>; the polymer, and therefore the bottle and the wall of the bottle, has a transmittance of 92% (column 37, lines 56 – 60) and is therefore transparent; the film is recyclable (recycling materials are added; column 51, lines 4 – 19) and Takahashi et al therefore disclose a bottle in which all of the layers comprise 100% recycled resin, or comprise virgin resin, therefore virgin high density polyethylene, blended with recycled resin.

With regard to Claims 14 – 16, the polymer disclosed by Takahashi et al comprises polypropylene (column 88, lines 66 – 67; column 89, lines 1 – 8) and comprises 60% by weight of a polyethylene polymer and 1% low density polyethylene (column 25, lines 3 – 9) and therefore comprises 39% by weight polypropylene.

With regard to Claim 23, Takahashi et al disclose a bottle having multiple layers, as discussed above, and therefore disclose a bottle having five layers, therefore having an inner and outer layer that each comprise 20% of the total thickness of the wall of the bottle.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 5/16/05*

Marc A. Patterson, PhD.  
Examiner  
Art Unit 1772